IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

C.R. No. 582 of 2007
Date of decision March 13, 2007

Tarsem Chand

.....Petitioner

Versus

Devi Dayal and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE VINEY MITTAL

Present:- Sh. Amarjeet Markan, Advocate
for the petitioner.

Sh. K. K. Garg, Advocate for
for respondent No.1.

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Viney Mittal, J (Oral

The present petition has been filed by Tarsem Chand, who was arrayed as respondent No.2 in an ejectment petition filed by the landlord-Devi Dayal. The aforesaid ejectment petition was dismissed by the learned Rent Controller. The landlord took up the matter in appeal before the Appellate Authority. The learned Appellate Authority noticed that the Rent Controller had not framed proper issues and had permitted the parties to produce documents on record without following the proper procedure. By making certain other observations, the Appellate Authority vide order dated December 13, 2006 set aside the order of the Rent Controller and remanded the case back to the Rent Controller for fresh decision with a direction to proceed further in accordance with law.

Sh. Amarjeet Markan, learned counsel appearing for the petitioner has contended that in view of the settled law, the Appellate Authority had no power to order the remand of the case and even if the

order of the Rent Controller was found to be defective in any manner, still the Appellate Authority should have decided the case itself and in any case, could have sought a report from the learned Rent Controller in accordance with law.

Sh. K.K. Garg, learned counsel appearing for respondent No.1 does not dispute the proposition of law convassed by the learned counsel for the petitioner.The learned counsel further states that he has no objection if the order dated December 13, 2006 passed by the Appellate Authority is set aside and directions are issued to the Appellate Authority to decide the appeal filed by the landlord-Devi Dayal in accordance with law.

Keeping in view the fair stand adopted by learned counsel for respondent No.1, the present petition is allowed. The order dated December 13,2006 passed by the Appellate Authority is set aside. The appeal filed by the landlord before the Appellate Authority is restored back to its original number. The Appellate Authority shall now decide the appeal afresh after taking into consideration the various pleas raised by both the parties and in accordance with law.

Parties through their counsel are directed to appear before the Appellate Authority on May 4, 2007.

A copy of the order be given dasti on payment of usual charges.

(VINEY MITTAL)
JUDGE

March 13, 2007
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